

10.5.2

Qualification Procedure

Qualification Process

1. Once an applicant submits a completed Background Check Application form to the local DEL office, DEL staff will:
 - a. Within three business days of receipt, electronically input the data into the Background Check Web Application.
 - b. Review the data entered for completion and accuracy. If the application is not complete, DEL will send the incomplete application back to the licensee.
 - c. Conduct a person search in FamLink.
2. Within five business days of receiving results from the WSP and Background Check Central Unit (BCCU), the licensor will begin the process of determining whether the applicant is qualified.
3. If more information is needed from an applicant in order to make a determination, DEL staff will:
 - a. Verbally notify the applicant requesting additional information.
 - b. Complete and mail the 10.9.1.11 Request for Additional Information letter to the applicant, requesting more information. This letter will:
 - i. Notify the applicant and the licensee that DEL is in the process of reviewing the application.
 - ii. Document the verbal conversation and request with the applicant.
 - iii. Document information or materials requested of the applicant.
 - iv. Document the date that information or materials must be received at DEL.
 - c. Once information is received, the licensor will review and make a recommendation to the supervisor to qualify or disqualify.
 - d. If the requested information is not received within 10 business days of the request, the applicant will be disqualified.
4. An applicant is qualified to care for and have unsupervised access to children once DEL evaluates all background check information, verifies that there is no disqualifying information and makes a final determination.
5. Once an applicant has been qualified, DEL staff will:
 - a. Document the results in the Background Check Web Service Application.
 - b. Print the "No Disqualifying Information Found" letter and send to the licensee within three business days of the decision.
 - i. When multiple sites are listed on the background check application form the "No Disqualifying Information Found" letter must be sent to each site.
6. Applicants are disqualified for the following actions:
 - a. Permanent convictions from the Director's List.
 - b. Non-permanent convictions from the Director's list if less than five years from the conviction date.
 - c. Convictions of equivalent crimes in another jurisdiction.

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- d. Negative actions, including findings of:
 - i. Child abuse and neglect;
 - ii. Abuse, neglect, financial exploitation of a vulnerable adult; or
 - iii. Pending investigations for any of the above.
7. Applicants may be disqualified if:
- a. There is a negative action that relates to character, suitability and competence to care for children. (Categories of negative actions are defined in WAC 170-06-0020).
 - b. The applicant is a subject of pending CPS investigation.
 - c. The applicant has other (non-conviction) background issues. Examples may include:
 - i. Obtaining a license dishonestly.
 - ii. Using or abusing prescription drugs, illegal drugs or alcohol, in a manner that presents a risk to children.
 - iii. Lacking physical or mental health to meet children's needs.
 - iv. Participating in illegal act on facility premises.
 - v. Having a previous child care license or certification suspended, revoked or denied.
8. When applicants are disqualified, DEL staff will:
- a. Document the results in the Background Check Web Application.
 - i. Verbally inform the licensee and,
 - ii. Send the system-generated "Disqualification" letter to the licensee within three business days of the decision.
 - b. If the applicant is applying for a license, the license application is denied.
 - c. The licenser will complete the "Disqualification" letter and send to the applicant within three business days. The letter must:
 - i. State the reasons for the disqualification,
 - ii. Advise the applicant of the reconsideration process.
 - iii. Advise the applicant of the right to an appeal.
 - d. If the decision is reversed through the reconsideration or administrative hearing process:
 - i. Update FamLink and the Background Check Web Application within three business days.
 - ii. Send the decision letter to the applicant within five business days.
 - iii. Inform the licensee of the reversal.
9. FamLink requires that the background check information be documented under the background check tab for the following individuals associated with a license:
- a. Family Home:
 - i. Licensee
 - ii. Assistants
 - iii. All persons residing on the premises 16 years of age or older.
 - b. Center Staff:
 - i. Owner
 - ii. Director
 - iii. Assistant Director, if applicable
 - iv. Program Supervisor

Fingerprint Process

10. When a fingerprint check is required, DEL staff will:
 - a. Electronically input the data into the Background Check Web Application.
 - b. Review the Fingerprint card for completeness, by ensuring:
 - i. The ORI box is completed and correct.
 - ii. The reason for being fingerprinted box is completed and correct.
 - iii. Applicant ID number is completed and correct in the OCA box.
 - iv. The applicant name and date of birth are correct.
 - c. Ensure fees are correct:
 - i. Money orders, business checks, personal checks and cashier's checks have:
 1. Date
 2. Correct fee amount
 3. Signature
 4. Made out to WSP
 - ii. Checks older than 180 days will be rejected by WSP.
 - iii. Fees paid are documented on a "Fingerprint Logging Form"
 1. Retain this form at the local DEL office
 - d. The completed fingerprint card and fees are sent to WSP at: Background check unit MS 42633.

DEL Reconsideration Process

11. If the applicant chooses to request reconsideration from DEL, DEL staff must:
 - a. Receive a completed Reconsideration Request signed by the applicant within 28 business days after the post mark date of the disqualification notification letter.
 - b. Upon receipt of the applicant's Reconsideration Request, the licensor and supervisor will:
 - i. Review the existing background check information and all supporting documentation.
 - ii. Review the information submitted with the Reconsideration Request.
 - iii. If more information is needed to make an informed decision, the licensor may request additional information from the applicant.
 - iv. As needed, the licensor may verify the additional information submitted by the applicant.
 - v. The new information from the applicant needs to demonstrate clear and convincing evidence that they are able to care for children.
 - vi. The licensor will complete the 10.9.1.14 Reconsideration Review Form and make a recommendation to either qualify or disqualify the applicant and forward the packet to the supervisor for review.
 - vii. If disqualified, the licensor will complete and send the 10.10.5 Reconsideration Decision Notice letter to the applicant within three business days of the decision. Denied reconsiderations will be forwarded to the ASAM.
 - viii. If recommended for qualification, the supervisor will send the Reconsideration Review Form and existing background check information to the SAM, or designee for review.

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- c. Upon receipt of the materials, the SAM or designee will:
 - i. Review the existing background check information and all supporting documentation.
 - ii. Review the information submitted with the Reconsideration Request.
 - iii. Review recommendations.
 - iv. Make a final determination on the Reconsideration Request.
 - v. If reconsideration is denied, the SAM or designee will notify the applicant in writing of the decision within five business days using Reconsideration Decision Notice Letter Template.
 - vi. If the reconsideration is approved, the SAM or designee will ensure that the Reconsideration Decision Notice Letter is sent to the applicant with five days of the decision.
 - vii. The Reconsideration Review Form and the Reconsideration Decision Notice Letter will be filed with the disqualification letter.

Hearing Process for all disqualified applicants

- 12. If an applicant chooses to request a hearing and not the DEL Reconsideration process, the applicant must make a request to the Office of Administrative Hearings (OAH) within 28 calendar days of the post mark date of the disqualification letter.
- 13. A request for reconsideration does not change the time the applicant has to request a hearing from OAH.
- 14. An applicant cannot withdraw a hearing request and make a request for reconsideration unless the 28 calendar day period for requesting reconsideration is still in effect.

Definitions

Applicant – An individual who is seeking a DEL background check authorization as part of an application for a child care agency license or DEL certification or who seeks DEL authorization to care for or have unsupervised access to children in child care.

Authorized or authorization – Approval by DEL to care for or have unsupervised access to children in child care or to work in or reside on the premises of a child care agency or certified facility.

BCCU – Background Check Central Unit of DSHS

Character, Competence, and Suitability (CCS) – The assessment of the potential personal and professional capability of an employee or applicant to work with or serve vulnerable adults, juveniles or children based on a review of crimes and negative actions.

Clear and convincing evidence – The credibility of evidence, measured with the persuasive factual nature of the evidence, would lead a reasonable person to a conclusion is highly probable or reasonably certain.

Director's List – A list of crimes, the commission of which disqualifies an individual from being authorized by DEL to care for or have unsupervised access to children in child care, WAC 170-06-0120.

Disqualified – DEL has determined that a person's background information prevents that person from being

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Created: 1/1/09

Effective: 10/15/10-1/1/12

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licensed or certified by DEL or from being authorized by DEL to care for or have unsupervised access to children in child care or live in the residence of a family home child care facility.

DSHS – Department of Social and Health Services

FBI – Federal Bureau of Investigation

Pending Charge – A charge for an offense or crime that has not been discharged by a court. A pending charge in Washington will show on a RAP sheet for only 12 months after the charge was filed if the court has not made a decision.

Negative action – A court order, court judgment or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability and competence to care for or have unsupervised access to children in child care. This may include but is not limited to a:

1. Decision issued by an administrative law judge.
2. Final determination, decision or finding made by an agency following an investigation.
3. Adverse agency action, including termination, revocation or denial of a license or certification.
4. Pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.
5. Revocation, denial or restriction placed on any professional license.
6. Final decision of a disciplinary board.

OCA – Originating Case Agency. This is the number assigned to an individual applicant to have a background check processed.

ORI – Originating Agency Identifier. The number issued by FBI authorizing DEL to submit fingerprints for a national criminal background check on applicants who have unsupervised access to children in care.

RAP Sheet – Record of Arrests and Prosecutions

Unsupervised access – Any individual who will or may have the opportunity to be alone with a child in child care at any time for any length of time and access that is not within constant visual or auditory range of the licensee, an employee authorized by DEL, nor a relative or guardian of the child in child care.

WSP – Washington State Patrol